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Th12c

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APPEAL STAFF REPORT - SUBSTANTIAL ISSUE DETERMINATION

Appeal number.....**A-3-SCO-02-117, Davenport Barn**

Applicant.....David Luers

Appellants.....Commissioners Sara Wan and Pedro Nava; Sierra Club; Coastal Organizers and Advocates for Small Towns (COAST)

Local government.....Santa Cruz County

Local decisionApproved with Conditions (November 13, 2002)

Project location.....Roughly one acre parcel located at the intersection of Old Coast Road, Davenport Avenue, and Highway One in the town of Davenport on Santa Cruz County's north coast.

Project descriptionDemolish the Davenport barn and construct a 3-story, roughly 6,400 square foot structure (4,316 square feet of enclosed interior space and 2,084 square feet of wrap-around decks/walkways) that would include two residential units and a retail sales operation (roughly half residential and half retail), with an approximately 4,700 square foot 10-car parking lot and associated hardscape (patios and paths) and landscaping.

File documents.....Santa Cruz County Certified Local Coastal Program (LCP); Coastal Commission Appeal files A-3-SCO-02-088 (RMC Pacific Materials), A-3-SCO-00-106 (Licursi Forrester's Hall), A-3-SCO-98-101 (Bailey-Steltenpohl); and Santa Cruz County CDP Application File 98-0234.

Staff recommendation ...Substantial Issue Exists

Summary of staff recommendation: Santa Cruz County approved a proposal to demolish the badly deteriorated Davenport barn and construct a 3-story, roughly 6,400 square foot (4,316 square feet of enclosed interior space and 2,084 square feet of wrap-around decks/walkways in three levels) commercial/residential structure with associated hardscape (patios and pathways), and a roughly 4,700 square foot 10-car parking lot. The project is located at the intersection of Old Coast Road, Davenport Avenue, and Highway One in the town of Davenport on Santa Cruz County's north coast. The project site is the gateway into Davenport along Highway One and is an important site in this respect for Davenport's character as well as the character of the overall Highway One viewshed.



California Coastal Commission

February 2003 Meeting in San Diego

Staff: D.Carl Approved by:

A-3-SCO-02-117 Davenport barn stfprt 2.6.2003.doc

The LCP protects riparian areas from development impacts by, among other things, requiring a 50 foot buffer and a ten foot setback from the buffer (a total of 60 feet). The approved project includes a parking lot, a 3-story structure, and associated hardscape within the LCP-required riparian setback/buffer area. It appears that the LCP's required exception findings cannot be made in this case, and it appears that the riparian corridor is not adequately protected as directed by the LCP.

The LCP protects the water quality of the on-site riparian corridor, San Vicente Creek, and the Monterey Bay. The project site drains to the riparian corridor and onto San Vicente Creek and then to the Monterey Bay. San Vicente Creek provides habitat for such State and Federally listed species as coho, steelhead, and red-legged frog. It isn't clear that the standard silt and grease trap proposed is sufficient to protect the significant downstream resources from polluted runoff impacts as directed by the LCP, and it isn't clear whether other wastewater generated by the project would adversely affect coastal water quality.

The LCP protects San Vicente Creek for habitat and water supply purposes. The approved project would require 3 new water hookups from the local water purveyor who in turn gets its water from San Vicente Creek. The County indicates that the project will not require additional water withdrawals from San Vicente Creek, but does not provide evidence as to how the new water use proposed will be accommodated without additional withdrawals. The impact of current water withdrawals on San Vicente Creek habitat resources is not well understood, and the incremental addition attributable to the approved project may exacerbate any such impacts or cause impacts of its own.

The LCP protects the Highway One viewshed and the small scale character of Davenport. The subject site is the gateway into Davenport along Highway One and is an important site in this respect for Davenport's character as well as the character of the overall Highway One viewshed. The existing weathered and redwood-clad rustic barn (proposed for demolition) has long defined the gateway into Davenport along Highway One for northbound travelers since its construction in 1925. The proposed structure would be significantly more massive and taller than the existing barn and would redefine this critical gateway site. The new structure would exceed the maximum height allowed in the commercial zone district (37 feet when 35 feet is the maximum in C-1 districts), would not meet the front setback requirement (setback would be 12 feet when 20 is required), and includes 3 stories when the LCP describes one or two stories as generally indicative of Davenport's small scale character. The proposed development appears to be overly large for the site, and thus would not be protective of Davenport's character or the Highway One viewshed.

The LCP requires protection and enhancement of public access and recreation areas, including the Highway One corridor that is protected for recreational access, and targets Davenport for specific enhancements, such as clear parking and circulation. Proposed vehicular access to and from the project appears to create a public safety hazard on Highway One, particularly on a cumulative basis when considered in relation to permitted and planned development in Davenport that is reasonably foreseeable. The hazard created would adversely impact access along Highway One, would confuse circulation within Davenport, and adversely affect Davenport's character as a result.

The approved project is overly ambitious in scale for the site and surrounding resources, and it appears



that it will adversely impact the character of Davenport and the Highway One viewshed. As such, the proposed project is not in conformance with LCP policies. These issues warrant a further analysis and review by the Coastal Commission of the proposed project.

Thus, Staff recommends that the Commission find that a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County Local Coastal Program (LCP) and take jurisdiction over the coastal development permit for the project. Staff further recommends that the Commission continue the de novo hearing of the coastal development permit to allow staff to work with the project applicant on potential project design modifications to meet the requirements of the certified LCP. Staff will subsequently prepare a recommendation for a de novo hearing of the project at a future Coastal Commission meeting.

Report Contents

	page
1. Appeal of Santa Cruz County Decision	4
A. Santa Cruz County Action	4
B. Appeal Procedures	4
C. Appellants' Contentions.....	5
2. Staff Recommendation on Substantial Issue.....	6
Recommended Findings and Declarations.....	6
3. Project Description.....	6
A. Project Location	6
B. County Approved Project.....	8
4. Substantial Issue Findings.....	8
A. Applicable Policies	8
B. Analysis of Consistency with Applicable Policies.....	8
C. Substantial Issue Conclusion	16
5. Exhibits	
Exhibit A: Regional Vicinity	
Exhibit B: Davenport Highway One Frontage Photos	
Exhibit C: Project Site Photos	
Exhibit D: County-Approved Site Plans and Elevations	
Exhibit E: Applicant's Photo-Simulations	
Exhibit F: Adopted Santa Cruz County Staff Report	
Exhibit G: Adopted Santa Cruz County Findings	
Exhibit H: Adopted Santa Cruz County Conditions	
Exhibit I: Appeal of Commissioners Sara Wan and Pedro Nava	
Exhibit J: Appeal of the Sierra Club	
Exhibit K: Appeal of the Coastal Organizers and Advocates for Small Towns (COAST)	
Exhibit L: Caltrans Correspondence	
Exhibit M: Applicable LCP Policies	



1. Appeal of Santa Cruz County Decision

A. Santa Cruz County Action

On November 13, 2002, the Santa Cruz County Planning Commission, on a referral from the Zoning Administrator, approved the proposed project subject to multiple conditions by a 3-2 vote (see exhibits F, G, and H for the County's adopted staff report, findings and conditions on the project). The Planning Commission's approval was not appealed locally (i.e., to the Board of Supervisors).¹ Notice of the Planning Commission's action on the coastal development permit (CDP) was received in the Coastal Commission's Central Coast District Office on December 12, 2002. The Coastal Commission's ten-working day appeal period for this action began on December 13, 2002 and concluded at 5pm on December 27, 2002. Three valid appeals (see below) were received during the appeal period.

B. Appeal Procedures

Coastal Act Section 30603 provides for the appeal of approved coastal development permits in jurisdictions with certified local coastal programs for development that is (1) between the sea and the first public road paralleling the sea or within 300 feet of the inland extent of any beach or of the mean high tideline of the sea where there is no beach, whichever is the greater distance; (2) on tidelands, submerged lands, public trust lands, within 100 feet of any wetland, estuary, or stream, or within 300 feet of the top of the seaward face of any coastal bluff; (3) in a sensitive coastal resource area; (4) for counties, not designated as the principal permitted use under the zoning ordinance or zoning district map; and (5) any action on a major public works project or energy facility. This project is appealable because the residential use proposed is not the principal permitted use within the C-1 commercial zone district. It also may be appealable because of the on-site riparian corridor were this San Vicente Creek feeder to be mapped as a stream, but Commission mapping staff has not undertaken this assessment at current time.²

The grounds for appeal under Section 30603 are limited to allegations that the development does not conform to the standards set forth in the certified LCP or the public access policies of the Coastal Act. Section 30625(b) of the Coastal Act requires the Commission to conduct a de novo coastal development permit hearing on an appealed project unless a majority of the Commission finds that "no substantial issue" is raised by such allegations. Under Section 30604(b), if the Commission conducts a de novo hearing, the Commission must find that the proposed development is in conformity with the certified local coastal program. Section 30604(c) also requires an additional specific finding that the development is in conformity with the public access and recreation policies of Chapter 3 of the Coastal Act, if the

¹ Because Santa Cruz County charges a fee for local coastal permit appeals, aggrieved parties can appeal such decisions directly to the Commission.

² This question need not be answered here because the project is already appealable by virtue of the type of development proposed.



project is located between the nearest public road and the sea or the shoreline of any body of water located within the coastal zone. This project is not so located and thus this additional finding need not be made in a de novo review in this case.

The only persons qualified to testify before the Commission on the substantial issue question are the Applicant, persons who made their views known before the local government (or their representatives), and the local government. Testimony from other persons regarding substantial issue must be submitted in writing. Any person may testify during the de novo stage of an appeal.

C. Appellants' Contentions

Appeal of Commissioners Wan and Nava

The two Commissioner Appellants contend that the County-approved project raises substantial issues with respect to the project's conformance with core LCP policies, concluding as follows:

In sum, the approved project is located at a critical gateway site along Santa Cruz County's north coast in Davenport, a LCP-designated special community whose character is to be protected. The approved project appears not to have responded to the coastal resource issues and constraints engendered by development proposed at this location. It appears that the approved structure is too large for the site, for Davenport, and for the commercial zoning requirements applicable here. Development is proposed within the required riparian buffer area, including a parking lot with a zero setback, and it is not clear that riparian and downstream resources (i.e., San Vicente Creek and Monterey Bay) are adequately protected. Traffic circulation problems appear likely to lead to adverse impacts to Highway One and Davenport circulation overall. The approved project appears overly ambitious in scale for the site and surrounding resources, and it appears that it will adversely impact the character of Davenport and the Highway One viewshed. As such, the proposed project's conformance with LCP policies is questionable. These issues warrant a further analysis and review by the Coastal Commission of the proposed project

Please see exhibit I for the Commissioner Appellants' complete appeal document.

Appeal of the Sierra Club

The Sierra Club appeal contains similar contentions as the Commissioner appeal, contending that the County-approved project raises substantial LCP issues related to inadequate protection for the riparian corridor, water quality, San Vicente Creek, Davenport circulation, Highway One viewshed, and Davenport community character. Please see exhibit J for the Sierra Club's complete appeal document.

Appeal of Coastal Organizers and Advocates for Small Towns (COAST)

The COAST appeal contains similar contentions as are in the Commissioner and Sierra Club appeals. Please see exhibit K for the COAST's complete appeal document.



2. Staff Recommendation on Substantial Issue

The staff recommends that the Commission determine that a **substantial issue** exists with respect to the grounds on which the appeal was filed. A finding of substantial issue would bring the project under the jurisdiction of the Commission for hearing and action.

***Motion.** I move that the Commission determine that Appeal Number A-3-SCO-02-117 raises **no** substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act.*

***Staff Recommendation of Substantial Issue.** Staff recommends a **no** vote. Failure of this motion will result in a de novo hearing on the application, and adoption of the following resolution and findings. Passage of this motion will result in a finding of No Substantial Issue and the local action will become final and effective. The motion passes only by an affirmative vote of the majority of the appointed Commissioners present.*

***Resolution To Find Substantial Issue.** The Commission hereby finds that Appeal Number A-3-SCO-02-117 presents a substantial issue with respect to the grounds on which the appeal has been filed under §30603 of the Coastal Act regarding consistency with the Certified Local Coastal Program.*

Recommended Findings and Declarations

The Commission finds and declares as follows:

3. Project Description

A. Project Location

The proposed project is located in the unincorporated town of Davenport along Santa Cruz County's rugged north coast. See exhibits A, B, and C for illustrative project location information.

Santa Cruz County Regional Setting

Santa Cruz County is located on California's central coast and is bordered to the north and south by San Mateo and Monterey Counties (see exhibit A). The County's shoreline includes the northern half of the Monterey Bay and the rugged north coast extending to San Mateo County along the Pacific Ocean. The County includes a wealth of natural resource systems within the coastal zone ranging from mountains and forests to beaches and lagoons and the Monterey Bay itself. The Bay has long been a focal point for area residents and visitors alike providing opportunities for surfers, fishermen, divers, marine researchers, kayakers, and boaters, among others. The unique grandeur of the region and its national significance was formally recognized in 1992 when the area offshore of the County became part of the



Monterey Bay National Marine Sanctuary – the largest of the 12 such federally protected marine sanctuaries in the nation.

Santa Cruz County's rugged mountain and coastal setting, its generally mild climate, and its well-honed cultural identity combine to make the area a desirable place to both live and visit. As a result, the County has seen extensive development and regional growth over the years that the California Coastal Management Program has been in place. In fact, Santa Cruz County's population has more than doubled since 1970 alone with current census estimates indicating that the County is currently home to over one-quarter of a million persons.³ This level of growth not only increases the regional need for housing, jobs, roads, urban services, infrastructure, and community services, but also the need for parks and recreational areas. For coastal counties such as Santa Cruz where the vast majority of residents live within a half-hour of the coast, and many closer than that, coastal recreational resources are a critical element in helping to meet these needs. Furthermore, with coastal parks and beaches themselves attracting visitors into the region, an even greater pressure is felt at coastal recreational areas and visitor destinations like Davenport. With Santa Cruz County beaches providing arguably the warmest and most accessible ocean waters in all of Northern California, and with the vast population centers of the San Francisco Bay area and the Silicon Valley nearby, this type of resource pressure is particularly evident in coastal Santa Cruz County.

Davenport Area

The proposed development is located in the unincorporated Town of Davenport, approximately ten miles north of the City of Santa Cruz. Davenport is a small coastal enclave in Santa Cruz County's North Coast planning area and is the only concentrated development area along Highway One between Santa Cruz and Half Moon Bay. This larger stretch of California's coastline is characterized by lush agricultural fields and extensive State Park and other undeveloped public land holdings. Davenport provides a convenient stopping place and a visitor destination for travelers along this mostly undeveloped coastline.

Proposed Development Site

The project is located at the intersection of Old Coast Road, Davenport Avenue, and Highway One in the town of Davenport on Santa Cruz County's north coast. The project is located at a "gateway" site on the inland side of Highway One as one enters Davenport headed north, and is an important site in this respect for Davenport's character as well as the character of the overall Highway One viewshed. The roughly one acre parcel includes a relatively level bench area (roughly 9-10,000 square feet) bordered by a steep riparian woodland area on the portion of the site sloping away from Old Coast Road towards the southeast. The edge of the riparian woodland is roughly located along the break in slope below the bench area, and is comprised primarily of willows. The riparian area extends down to a lower bench area above San Vicente Creek at the end of Fair Avenue, and drains through a highway-side drainage to the Creek itself to the southeast. The upper bench area, likely created from unconsolidated fill material when

³ Census data from 1970 shows Santa Cruz County with 123,790 persons; California Department of Finance estimates for the 2000 census indicate that over 255,000 persons reside in Santa Cruz County.



Highway One was originally constructed, is currently partially occupied with a deteriorated and weathered redwood-clad barn, no longer in use, that has been at this location since 1925 (the old box factory).

See exhibit B and C for graphics showing the subject site in relation to the various features described above.

B. County Approved Project

The County approval allows the existing barn to be demolished, and a new 3-story structure to be constructed slightly inland from the current barn's location. A 10-space parking lot would be constructed on that side of the property currently occupied by the barn (and nearest Highway One), and landscaping, pathways, patios, and associated fencing would be installed.

See exhibit D for County-approved site plans, and exhibits F, G and H for the County staff report (exhibit F), findings (exhibit G), and conditions (exhibit H) approving the Applicant's proposed project.

4. Substantial Issue Findings

A. Applicable Policies

The Appellants' LCP allegations generally raise questions regarding whether the approved project adequately addresses LCP policies relating to protection of riparian corridors, water quality, water supply, San Vicente Creek, Highway One public access, Highway One and Davenport viewshed, and Davenport's community character (see exhibits I, J, and K for the complete appeal documents).

There are a sizeable number of LCP policies that apply to the proposed project and the appeal contentions. Part of the reason for this is because the range of coastal resources potentially involved (i.e., ESHA, public access and recreation, water quality, water supply, viewshed/character, etc.), and part of the reason is because of the way the certified LCP is constructed where there are a significant number of policies within each identified issue area, and then other policies in different LCP issue areas that also involve other issue areas (e.g., habitat policies that include water quality requirements, and vis versa). In addition, there are a number of Davenport specific policies because the town is an LCP-designated Coastal Special Community. In terms of habitat resources, there are also two zoning chapters that include requirements for protecting streams, riparian corridors, and ESHA.

For brevity's sake in these findings, applicable policies are shown in exhibit M. They are summarized below.

B. Analysis of Consistency with Applicable Policies

As detailed below, the appeals raise a substantial issue with respect to the project's conformance with



the Santa Cruz County LCP. The following substantial issues are raised:

Riparian Corridor Protection

The LCP designates the on-site riparian woodland as both Sensitive Habitat and ESHA as that term is understood within a Coastal Act context (LUP Policy 5.1.2(i) and 5.1.3, IP Chapter 16.32). The LCP protects this riparian woodland from development impacts by, among other things, requiring a 50 foot buffer and a ten foot setback from the buffer (a total of 60 feet) (LCP policies including LUP Policies 5.1 and 5.2 et seq, and LCP Zoning Chapters 16.30 and 16.32). Exceptions to the riparian corridor setback requirements are only allowed under very limited circumstances, and are subject to making specific exception findings (IP Sections 16.30.060). See exhibit M for applicable LCP policies.

The approved project includes a parking lot, a 3-story structure, and associated hardscape within the required setback/buffer area; with setbacks of zero for the parking lot, about 32 feet for the main building, and about 20 feet for the associated hard patio area (see annotated site plan on page 2 of exhibit D). Since the site is currently unused, the project will introduce significant new noise, lights, activities, and runoff immediately adjacent and into the riparian corridor. The County exception findings indicate that development is allowed within the required setback because the limited developable area represents a special circumstance, and that an exception is necessary to allow for the proper functioning a permitted activity on the property (among other things – see County findings in exhibit G).

However, there is little information in the administrative record regarding the expected effect of the project on the existing riparian woodland, and limited if any biological justification supporting a reduced setback. Due to site constraints, the area most suitable for development (out of the riparian buffer, level) is approximately 9-10,000 square feet. However, this does not of itself create a special circumstance that suspends other LCP policies. Rather, in reading the LCP as a whole in this regard, the intent would be to maximize protection – and enhancement – of the riparian woodland resource while considering what amount of commercial development is appropriate in light of the 9-10,000 square foot bench area available to accommodate both riparian setback and development. There is no evidence in the County file that the entirety of the bench area is necessary to accommodate a viable commercial use at this location. Moreover, in this case, roughly half of the project square footage and other facilities (e.g., parking) is to support the two residential units, and not to support any principally permitted commercial use on the site.

It does not appear that the current half residential, half commercial project has been planned around the site constraints (such as the riparian corridor), but rather is an attempt to build a larger project than the site can accommodate given the constraints. It does not appear that a riparian exception is warranted for the project in its current configuration.

In conclusion, the proposed development is located within the LCP required riparian setback/buffer. The LCP required exception findings are not adequately supported and thus the riparian corridor does not appear to be adequately protected as directed by the LCP. As such, the approval raises questions of consistency with the riparian policies of the LCP. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.



Water Quality/San Vicente Creek Habitat

The LCP protects the water quality of the on-site riparian corridor, San Vicente Creek, and the Monterey Bay (including the aforementioned LCP habitat policies and Policies 5.4 et seq, 5.7 et seq, and 7.23 et seq; see exhibit M). The project site drains down through the riparian corridor to a bench area above San Vicente Creek (at the end of Fair Avenue), and then through a highway-side drainage to the Creek itself to the east, and ultimately from there onto the Monterey Bay (see page 11 of Exhibit D).

At a minimum, San Vicente Creek is known habitat for State and Federally listed coho salmon, steelhead salmon, and red-legged frog,⁴ and the California Fish and Game Commission has designated San Vicente Creek as an endangered coho salmon spawning stream. NMFS indicates that San Vicente Creek is the southern-most creek where coho salmon is still extant in its entire North American range, and that protection of this creek is therefore of significant importance. CDFG echoes NMFS concerns in this regard, and have asked that the County not approve additional development without an understanding of such development's potential impact to San Vicente Creek.

The project drainage would be collected, directed through a standard silt and grease trap, and then piped down through the riparian corridor to the base of the riparian slope where it would be outletted and expected to enter the highway-side drainage course and then onto San Vicente Creek and the Monterey Bay. However, the Commission has expressed concerns regarding reliance on standard silt and grease traps to adequately protect receiving waterbodies from urban runoff pollutants. The efficacy of such units is has not always proven adequate in the Commission's experience. When the LCP dictates maximum protection, given the significant habitat of San Vicente Creek to which the runoff would ultimately be directed, silt and grease traps that act as sediment holding basins are not sufficient in this regard. Accordingly, an LCP conformance question is raised. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

Water Quality/Wastewater

The approved project would require new wastewater hookups from the Davenport County Sanitation District (DCSD). The wastewater system in Davenport has limited capacity, and the amount of wastewater that can be treated at the current time appears to be tied directly to the amount of treated wastewater that can be used by RMC Pacific Materials in their cement plant operations. DCSD has recently raised concerns that any curtailment of production capacities for RMC could lead to overflow of wastewater from their sewage holding lagoon. The Commission is currently considering an appeal of a County decision granting RMC a production increase, but this matter has not yet been resolved (pending appeal A-3-SCO-02-088).

In addition to the above-mentioned water quality policies, the LCP requires a will-serve wastewater commitment from DCSD, and it does not allow approval of a project unless it can be determined that there is adequate sewage treatment plant capacity (LCP policy 7.19.1; see exhibit M). Clearly,

⁴ Coho are State-listed as an endangered species and Federally listed as a threatened species, steelhead are Federally listed as a threatened species, and red-legged frog are Federally listed as a threatened species and State listed as a special concern species.



wastewater capacity issues in Davenport are unresolved. As such, the approval raises questions of consistency with the wastewater and water quality policies of the LCP. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

Water Supply/San Vicente Creek Habitat

In addition to the above mentioned LCP policies on water quality and habitat, the LCP designates San Vicente Creek as a Critical Water Supply Stream that is currently being used at full capacity, requires adequate stream flows to protect anadromous fish runs, including restoration of same if in-stream flows are inadequate for fisheries, and prohibits additional withdrawals of water from designated Critical Water Supply Streams (LCP Objective and Policies 5.6 et seq). The LCP requires that development be evaluated for its potential to impact water supply systems and that a commitment to provide water to the project be demonstrated (LCP Policies 7.18.2 and 7.18.3). See exhibit M.

DCSD gets its water from RMC Pacific Materials which gets its water from both San Vicente Creek and Mill Creek. The State Water Resources Control Board recently completed an investigation of RMC's right to withdraw water from San Vicente and Mill Creeks that concluded, among other things, that RMC does not have a riparian right and appears to have only a partial appropriative water right (pre-1914) to divert water from the two creeks, that RMC appears to have diverted water in excess of the pre-1914 right, and that approximately 30% of the water diverted was spilled and not used for a beneficial use.⁵

As mentioned above, San Vicente Creek provides habitat for such State and Federally listed species as coho, steelhead, and red-legged frog. It is not clear at present time whether existing water withdrawals are leading to listed species habitat degradation, nor is it clear whether the additional water allotted to the approved development in this case would exacerbate any such impacts or cause impacts of its own. In fact, the Commission is not aware of any comprehensive evaluations, whether in this project context or otherwise, of habitat impacts due to the RMC's water diversion activities on the San Vicente Creek.⁶ Without such information, and because of the sensitivity of the habitat present in the San Vicente Creek, the Commission believes the most conservative (and most protective of habitat) approach is warranted. There needs to be a clear understanding that a project will not impact San Vicente Creek habitat resources before it can be considered. Note, for example, that on the Trust for Public Land's (TPL's) Coast Dairies property that surrounds Davenport, and that includes in part San Vicente Creek, NMFS and CDFG this year have gone as far as to inform TPL that all agricultural diversions should stop immediately due to their harm to fisheries resources. Again, the Commission is currently considering an appeal of a County decision granting RMC a production increase, but this matter has not yet been resolved and it is unclear as to what effect it may have on water supply in Davenport (pending appeal A-

⁵ State Water Resources Control Board, December 27, 2001.

⁶ Note that the State Board Investigation from December 2001 did not include such an evaluation, noting that such an evaluation was beyond the scope of that investigation due to limited State Board resources available to develop the required body of evidence. The State Board investigation did indicate, however, that if valuable public trust resources exist in a stream, if these resources are being adversely affected by diversions, and if modification to diversions would help alleviate such impacts (all of which may be the case for San Vicente Creek), then the Board can step in to reallocate water for beneficial uses.



3-SCO-02-088).

The project results in three new water hook-ups, one each for each residential unit, and one for the commercial establishment. The LCP identifies residential as a low-priority use for which it is not clear that allotting scant water supplies is appropriate in this case. The approval raises questions of consistency with the water supply and habitat policies of the LCP. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

Highway One/Davenport Public Access

Santa Cruz County's north coast area is a stretch of mostly undeveloped Central Coast that represents the grandeur of a bygone (in many places) agrarian setting and coastal wilderness California that attracts visitors to it. Davenport itself is an important visitor destination; its proximity to Santa Cruz heightening its appeal in this regard. Highway One is the primary (and in some places only) means of travel on the north coast, and is thus widely used by visitors and those otherwise seeking to enjoy the region's coastal resources.

The LCP contains a series of interwoven policies which, when taken together, reinforce and reflect the Coastal Act mandate to maximize public access and recreational opportunities, protect existing public access and encourage public access and recreational enhancements (such as public parking, trails, and other facilities) to increase enjoyment of coastal resources and to improve access within the coastal region (LCP Chapters 3 and 7). The LCP also targets Davenport for specific enhancements, such as clear parking and circulation (including IP Section 13.20.143 et seq). The LCP establishes a priority of uses within the coastal zone where recreational uses and facilities are a higher priority than residential uses, and the LCP prohibits the conversion of a higher priority use to a lower priority use (LCP Policy 2.22 et seq); in road improvement projects, priority is given to providing recreational access (LCP Policy 3.14 et seq). Existing public access use is protected (LCP policy 7.7.10). See exhibit M.

Highway One is a two-lane road through Davenport, although there may be changes to Highway One in the future to address circulation issues associated with current use issues along the main frontage and to address previously permitted projects (like the Bailey-Steltenpohl commercial project across the Highway from the subject site previously approved by the Commission in 2000; CDP A-3-SCO-98-101). The approved project would include a parking lot (with site ingress and egress) on that portion of the site nearest to Highway One (see exhibit D). The existing Highway One, Davenport Avenue, Old Coast Road intersection is already confused given that Old Coast Road and Davenport Avenue intersect Highway One at approximately the same location (see site photos in exhibits B and C); the new driveway would be placed in the same general area (see exhibit D). It appears likely that there will be queuing problems on both directions of Highway One (from those drivers to the proposed facility attempting to access Davenport Avenue/Old Coast Road and the facility), and from those attempting to leave the proposed parking lot area (inasmuch as they must exit onto Old Coast Road and then immediately cross Davenport Avenue at the intersection with Highway One). In short, the subject intersection is already problematic and locating the new parking lot access right in the middle of it exacerbates the existing problem and adversely affects Highway One and Davenport access. Caltrans



does not support the current configuration of the project's ingress and egress for these reasons and recommends that major project modifications are necessary (see exhibit L). The parking lot itself would appear to be problematic inasmuch as there doesn't appear to be adequate space within which to site parking stalls nearest the garage entrance (see page 2 of exhibit D); as a result, vehicles getting into and out of these parking stalls would likely jam in this area.

The approved project would appear to create a public safety hazard on Highway One, particularly on a cumulative basis when considered in relation to permitted and planned development in Davenport that is reasonably foreseeable. The hazard created would adversely impact access along Highway One, would confuse circulation within Davenport, and adversely affect Davenport's character as a result. Internal circulation appears problematic. As such, the approval raises questions of consistency with the public access and Davenport circulation policies of the LCP. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

Davenport's Community Character/Highway One Viewshed

The LCP is fiercely protective of coastal zone visual resources, and specifically protective of the views available from Highway One as it winds through the County from San Mateo to Monterey County lines. In fact, the LCP states that the public vista from Highway One "shall be afforded the highest level of protection" (LCP Policy 5.10.10). This section of Highway One is also specifically identified as eligible for official designation as part of the California Scenic Highway Program. The subject site is located roughly 10 miles upcoast of the City of Santa Cruz along the mostly undeveloped stretch of Central Coast extending between the Cities of Santa Cruz and Half Moon Bay to the south. The north Santa Cruz coast area represents the grandeur of bygone (in many places) agrarian and wilderness California and is a critical public viewshed for which the LCP dictates maximum protection.

The LCP likewise is protective of the Town of Davenport, calling out this enclave as a "Coastal Special Community" (LCP Policy 8.8.2). New development is to be subservient to maintaining the community's character through preserving and enhancing Davenport's unique characteristics. The Highway One frontage is to be emphasized as both a rural community center and a visitor serving area where site design is required to emphasize the historic assets of the town. Davenport is a widely renowned whale watching and visitor destination that has been recognized within the LCP for its special community character – a character within which the subject gateway site plays an important role.

These LCP policies taken together require in effect that the impacts of new development in view of Highway One be minimized, and that new development in Davenport be designed and integrated into the existing community character and aesthetic (see applicable policies in exhibit M). The questions of "small-scale" and Davenport's "community character" are thus central to the Commission's review of this project.

Davenport's tightly clustered residential and commercial development reflect the town's working heritage: whaling industry, agricultural shipping and processing, cement manufacture. In its layout and simplicity of architecture – devoid of pretense – Davenport is strongly reminiscent of other "company" mining or logging towns in the West. Today, the quarrying and processing of limestone for the



manufacture of cement remain the economic backbone of the community. Some diversification is offered by small-scale artisan industries. More recently, the two-block commercial strip along the highway frontage continues the process of awakening to the opportunities afforded by the tourist industry.

Currently, the immense RMC Pacific Materials cement plant dominates Davenport. This huge industrial structure can be seen for miles and is in stark contrast to the rest of the town. In fact, notwithstanding the cement plant behemoth, Davenport's commercial frontage could be described as "eclectic frontier rustic" in character based on the variety of building styles, materials, and heights. Remodeling along the highway frontage has more recently injected a more finished facade as seen from the highway. See exhibit B for photographs of the Highway One frontage.

When evaluating the character of an individual development as it relates to other development in a community, a number of factors need to be considered, including structural proportions, layout, exterior finish and any architectural embellishments. Equally important are height, bulk, and other considerations of scale.

In this case, the existing barn has occupied this location for the better part of the last century. The weathered redwood-clad barn is immediately adjacent to Highway One and frames the gateway into Davenport as one enters the town headed north on Highway One. The existing barn is a mix of one (nearest Old Coast Road) and two stories, occupies a roughly 2,600 square foot area on the site and appears to be around 28 feet in height (see photos of barn in exhibit C). It has been abandoned and is falling down. Nonetheless, the rustic barn and surrounding riparian woodland vegetation help to define Davenport's character, and provide a connection to the town's historic past. The approved project provides for the demolition of the barn.

The new main building that would be constructed on the site would occupy a footprint of roughly 2,200 square feet, and an overall bulk, including decks, of roughly 6,400 square feet.⁷ The structure would be 3 stories with a maximum height of roughly 37 feet.⁸ The building would be faced with stucco on the first floor, and clad with redwood board and bat for the top two floors. The parking lot area would occupy roughly 4,700 square feet. The applicant's photo simulations and the photos of the project staking

⁷ Note that there has been confusion over the amount of square footage proposed. Part of the reason for this is because the project includes substantial area of wrap-around decks (and covered walkway for the 1st floor). Interior space proposed is 4,316 square feet. Decks/covered walkways proposed is 2,084 square feet. The style of the wrap around decks proposed are such that they contribute significantly to the sense of bulk proposed. Therefore, the overall bulk is calculated, including adding the covered walkway area surrounding the first floor (812 square feet) to the first floor interior space (1,420 square feet) to arrive at a structural footprint of 2,232 square feet. See approved plans in exhibit D.

⁸ Again, there has been confusion on the overall height proposed. The approved plans show the height to be in excess of 35 feet, with a maximum grade to pitch height of 37 feet (see approved plans in exhibit D). In the time since this item was appealed, the County subsequently has indicated that the Applicant agreed to lower the height (to 32 feet 4 inches on the west elevation and 34 feet 8 inches on the east elevation), and that this lower height is what is shown on the project flagging, staking, and photo simulations (see exhibits C and E), and also it is the lower height that was reported to the Planning Commission when they approved the project (personal communication from County planning staff). Although the County also subsequently indicated that the lower height would be what would be enforced in the County coastal permit, there is no corresponding condition to implement the lower height and the approved plans do not show same.



required by the County give a general sense of the area that would be occupied by the proposed structure.⁹ See exhibits C and E.

The maximum height in a commercial district is 35 feet, and 37 has been approved. The minimum front yard setback for a commercial site fronting or across the street from a residential district (such as this site) is 20 feet, and 12 has been approved. Three stories have been approved when the applicable LCP policy states “require new development to be consistent with the height bulk, scale, materials and setbacks of existing development: generally small scale, one or two story structures of wood construction.” Other than the cement plant itself, 3-story structures in Davenport are very rare; in fact, it is not clear whether there are any such 3-story structures in Davenport. Stucco is proposed for the first floor exterior treatment when the LCP identifies wood. Further, Countywide maximums must be understood within the site context and its location relative to the Davenport and the Highway One viewshed. Countywide maximum considerations of mass and scale (such as height and bulk) are not entitlements, but rather maximums that may need adjustment in light of resource constraints (riparian corridors, public viewshed concerns, special community character, etc.). It isn’t clear that such maximums are appropriate in this unique site context when read in tandem with the LCP policies discussed above.

In terms of parking and space given over to it, if only interior space is used, and hallways and bathrooms are not applied toward commercial square footage, a minimum of 11 parking spaces are required. If, however, exterior commercial decking and walkways are included, more parking spaces would be required. In any case, it would appear that that portion of the parking lot where the residential garage is proposed (nearest the riparian corridor) would not work smoothly inasmuch as there doesn’t appear to be adequate space within which to site parking stalls, and as a result cars backing up and getting into stalls would jam in this area. It appears that additional parking area to satisfy the use proposed might be necessary.

In sum, the existing weathered and rustic barn helps to define Davenport’s character and the Highway One viewshed. Removing it and replacing it inland with a larger structure will definitely alter the character of the town. The new structure exceeds the applicable height requirement, doesn’t meet the setback requirement, and includes 3 stories when the LCP describes one or two stories as generally indicative of Davenport’s small scale character. It’s scale appears to be overly ambitious in light of the limited bench area available, and the other constraints discussed in the preceding findings. The parking lot might need to be even larger to accommodate the scale of development proposed. In the two most recent Commission decisions where Davenport’s community character was an issue, the Commission required the new development to essentially maintain the appearance of what was there before (in size,

⁹ Although not all structural elements and decking was approximated by the staking, and, as indicated above, the staking was to a lower height than shown on the approved plans.



bulk, and exterior treatment) so as to maintain Davenport's character and the Highway One viewshed.¹⁰ The County staff report does not indicate if there was consideration of an alternative project that maintained the appearance of the existing barn at this location to address similar concerns raised in this case.

Therefore, the approval raises questions of consistency with the Highway One viewshed and Davenport community character policies of the LCP. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

Cumulative Impacts

The LCP requires that development not adversely affect, individually or cumulatively, coastal resources (LCP Policy 2.1.4 – see exhibit M), including the coastal resources thus far discussed in these findings. There are a number of commercial projects either permitted (e.g., the aforementioned Bailey-Steltenpohl and Forrester's Hall projects) or pending (e.g., the aforementioned RMC Pacific Materials cement plant projects) in Davenport. All of these projects are either under construction (i.e., Bailey-Steltenpohl) or could be in the reasonably foreseeable future. It is reasonable to assume that their combined effect on coastal resources when considered along with the of the project under appeal here, could lead to cumulative impacts to the types of coastal resources detailed in the findings above. As such, the approval raises questions of consistency with the cumulative impact policies of the LCP. Thus, a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County LCP.

C. Substantial Issue Conclusion

The approved project is located at a critical gateway site along Santa Cruz County's north coast in Davenport, a LCP-designated special community whose character is to be protected. The approved project appears not to have responded to the coastal resource issues and constraints engendered by development proposed at this location. It appears that the approved structure is too large for the site, for Davenport, and for the commercial zoning requirements applicable here. Development is proposed within the required riparian buffer area, including a parking lot with a zero setback, and riparian and downstream resources (i.e., San Vicente Creek and Monterey Bay) appear not to have been adequately protected. Traffic circulation problems appear likely to lead to adverse impacts to Highway One and Davenport circulation overall. The approved project appears overly ambitious in scale for the site and surrounding resources, and it appears that it will adversely impact the character of Davenport and the Highway One viewshed. As such, the proposed project's conformance with LCP policies is questionable. These issues, both individually and cumulatively, warrant a further analysis and review by the Coastal Commission of the proposed project.

¹⁰ The Bailey-Steltenpohl project in the former Odwalla building across Highway One from this site and the reconstruction of Forrester's Hall directly upcoast from here (A-3-SCO-98-101 and A-3-SCO-00-106, respectively; both heard by the Commission in 2000). In the Bailey-Steltenpohl case, the approved development was required to occupy the same footprint and profile as that that existed previously. In the Forrester's Hall case, the development almost identically replicated the historic Forrester's Hall structure that had been demolished.



The Commission finds that a substantial issue exists with respect to this project's conformance with the certified Santa Cruz County Local Coastal Program and takes jurisdiction over the coastal development permit for this project. Prior to further de novo review, the Commission expects that the Applicant will work with Commission staff to evaluate alternatives designed to address the issues identified in these substantial issue findings. In this evaluation, and because of the range of constraints and LCP issues, the Commission notes that it may not be possible to accommodate a viable commercial project at this location. Among other issues noted in this report, this is partly due to some of the physical issues at the site itself (i.e., the riparian corridor, the limited bench area available, and Davenport character). It is also due to the location of the property relative to Highway One and the dual Old Coast Road/Davenport Avenue intersection; directing visitor traffic onto this site leads to difficulties in Davenport circulation at best, and may prove fatal to a commercial project at worst. Given the range of issues, it is not even clear that the underlying commercial zoning is appropriate at this location given that it is shoehorned into a primarily residential area that is separated from the main Davenport commercial frontage. It may be that a more modest economic use, possibly even a small residential use, is more appropriate for the subject site if development must be entertained because of takings considerations.

